



{In Archive} RE: Louisiana Generating: Urgent Request for Information On
New Reheater Projects at Big Cajun II

kent.mayo to: Justin.Savage

10/01/2012 07:49 AM

Anna.Cross, Bethanne.Walinskas, Dwana.King, Andrea Carrillo,
Cc: Melanie Shepherdson, John.Gaupp, Richard.Gladstein, Jim.Lofton,
Jason.Dunn, Elias.Quinn, Andrew.Hanson2, megan.berge,

History: This message has been forwarded.

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1 attachment



Response to 9-29-12 letter.pdf

Counsel,

Please see the attached response to your September 29, 2012 letter.

Kent Mayo
Baker Botts L.L.P.
The Warner
1299 Pennsylvania Avenue, NW
Washington, DC 20004
Office: 202-639-1122
Cell: 202-255-3753
Fax: 202-585-1007

From: Savage, Justin (ENRD) [mailto:Justin.Savage@usdoj.gov]
Sent: Saturday, September 29, 2012 8:58 PM
To: Berge, Megan; Mayo, Kent; Super, David; jim.dore@keanmiller.com;
benn.vincent@keanmiller.com
Cc: Cross, Anna (ENRD); Walinskas, Bethanne (ENRD);
Dwana.King@la.gov; Andrea Carrillo;
'Shepherdson.Melanie@epamail.epa.gov'; Gaupp, John (USALAM);
Gladstein, Richard (ENRD); Lofton, Jim (ENRD); Dunn, Jason (ENRD);
Quinn, Elias (ENRD); Hanson, Andrew (ENRD)
Subject: Louisiana Generating: Urgent Request for Information On New
Reheater Projects at Big Cajun II
Importance: High

Please see the attached. Due to the urgency of this matter, it is also
pasted below.

September 29, 2012
By Electronic Mail
Kent Mayo
Megan Berge
Baker Botts LLP

The Warner
1299 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2400
Counsel for Defendant Louisiana Generating, LLC

Re: United States v. Louisiana Generating LLC, No.
09-100-JJB-DD (M.D. La.)

Dear Counsel:

As you know, the jury trial begins in about two weeks on whether the 1998/1999 replacement of the primary reheaters at Big Cajun II Units 1 and 2 violates the federal Clean Air Act.

In a letter yesterday to my colleague Mr. Gladstein, Mrs. Berge disclosed that Defendant Louisiana Generating, LLC intends to perform another primary reheater replacement at Big Cajun II. Specifically, Mrs. Berge mentioned that a photograph disclosed to us a few days ago, DX 618, depicts new primary reheater tube bundles being stored at the plant warehouse. Her letter also mentioned that another new exhibit, DX 617, shows the same primary reheater tube bundles being stored outside the plant. These newly disclosed exhibits appear wholly immaterial to the jury's resolution of the remaining issues about the 1998/1999 projects.

What is potentially relevant, however, is that Defendant appears poised to perform another primary reheater project at the same plant before the jury even decides whether the prior reheater projects violate the Clean Air Act. Because we would prefer to make a decision based on a careful understanding and analysis of all the relevant facts, please provide us the following basic information:

1. State when this new reheater project will begin construction at the plant;
2. Identify the unit or units at Big Cajun II on which the primary reheater replacements will be performed;
3. State whether the primary reheater replacement(s) will be partial

- or complete;
4. Provide the total estimated cost of these primary reheater replacement(s);
 5. Provide any applicability determinations; and
 6. Provide any emissions analysis.

Once we have this information, we will inform you Monday morning about whether we intend to seek preliminary relief to preserve the status quo pending the outcome of the jury trial.

We therefore request the provision of this basic information as soon as possible.

Sincerely,
/s/ Justin A. Savage
Justin A. Savage
Senior Counsel

From: megan.berge@bakerbotts.com [
mailto:megan.berge@bakerbotts.com]
Sent: Friday, September 28, 2012 1:54 PM
To: Gladstein, Richard (ENRD); kent.mayo@bakerbotts.com;
david.super@bakerbotts.com; jim.dore@keanmiller.com;
benn.vincent@keanmiller.com
Cc: Cross, Anna (ENRD); Savage, Justin (ENRD); Walinskas, Bethanne
(ENRD); Dwana.King@la.gov
Subject: RE: Louisiana Generating - Letter re Production of reheater
photos and video

Richard,

Please see the attached correspondence regarding your letter dated September 27, 2012.

Megan

Megan Heuberger Berge
Baker Botts, LLP
1299 Pennsylvania Ave., NW
Washington, DC 20004
202.639.1308 (T)
202.256.0827 (C)

From: Gladstein, Richard (ENRD) [mailto:Richard.Gladstein@usdoj.gov]
Sent: Thursday, September 27, 2012 6:00 PM
To: Mayo, Kent; Berge, Megan; Super, David; jim.dore@keanmiller.com

Cc: Cross, Anna (ENRD); Savage, Justin (ENRD); Walinskas, Bethanne (ENRD); Dwana.King@la.gov
Subject: Louisiana Generating - Letter re Production of reheater photos and video

Please see the attached letter. Thanks,

Richard Gladstein
Senior Counsel
U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 7611
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October 1, 2012

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Re: Letter Dated September 29, 2012

Dear Counsel:

I am writing in response to your letter dated September 29, 2012 regarding your request for information on the primary reheater tube bundles depicted in Louisiana Generating LLC's Exhibits DX-617 and 618, which are currently stored at the Big Cajun II power plant ("Big Cajun II").

Your letter incorrectly characterizes Ms. Berge's September 28, 2012 letter as somehow representing that Louisiana Generating is poised "to perform another primary reheater replacement at Big Cajun II" when the letter states only that the photos in DX-617 and 618 "depict uninstalled bundles of primary reheater tubes." LaGen is maintaining such tubes on site for potential future maintenance, and you are incorrect to presume that use of these tubes is imminent or would occur during the pendency of the upcoming trial. To the extent a determination is made to use this tubing at Big Cajun II in the future, LaGen will of course perform any analyses and regulatory determinations required under the applicable regulations in advance of the work.

Regards,



Kent Mayo

